

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of Martin Alles and Joseph P. Kennedy

Serial No.: 10/586,744

Art Unit: 2618

Filed: June 23, 2008

Examiner: John J. Lee

Title: SYSTEM AND METHOD FOR IDENTIFYING THE PATH OR DEVICES ON THE PATH OF A COMMUNICATION SIGNAL USING (1+R(T)) AMPLITUDE MODULATION

Office of Petitions

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

Sir:

This communication is responsive to the Notice of Abandonment for the subject application mailed August 2, 2010 and the Decision dismissing Applicant's petition filed on October 15, 2010. Applicant hereby renews its petition of the Office to withdraw the holding of abandonment of this application based on failure to receive an Office Action under MPEP §711.03(c) and 37 C.F.R. § 1.181.

In brief, while conducting due diligence for the subject application on June 28, 2010, Applicant noted that an Office Action had been mailed on December 22, 2009. During a subsequent teleconference with the Examiner, Applicant informed the Examiner that the Office Action was never received. Applicant then received the Notice of Abandonment mailed August 2, 2010 and filed a Petition to Withdraw the Holding of

Abandonment on October 15, 2010. Applicant received a decision dismissing its earlier filed petition and hereby renews said petition.

PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

The undersigned hereby states that the Office Action mailed from the Patent Office on December 22, 2009 was not received by the practitioner via U.S. mail at the correspondence address of record. The undersigned further states that a search of the undersigned's records, including the respective file jacket and the application contents thereof indicates that the Office Action was never received.

I. Statement of Facts.

Applicant never received the Office Action dated December 22, 2009 via U.S. mail. A periodic due diligence review of patent applications on the USPTO's Public Patent Application Information Retrieval ("PAIR") website conducted on June 28, 2010, however, provided an indication that an Office Action had issued for the subject application. During a subsequent teleconference held with the Examiner, Applicant informed the Examiner that the Office Action was never received. On August 2, 2010, the Patent Office issued a Notice of Abandonment.

II. The Office Action was never received by Applicant.

The undersigned hereby states that the Office Action was not received by the attorneys of record in the application at the correspondence address of record. The undersigned further states that a search of the undersigned's records, including the respective file jacket and the application contents thereof, indicate that the Office Action was never received.

A copy of the Patricia docket system for each patent file for the undersigned's firm for the working period in which the Office Action should have been docketed from the date of mailing of the Office Action to the date three months thereafter is submitted herewith as Exhibit A. This docket shows that a reply to the Office Action was not docketed as it would have been in the ordinary course of business if the Office Action had been received. The undersigned hereby states that the docketing clerk whose duties included recording and docketing office actions possessed sufficient training in the necessary docketing duties and also states that the Patricia docketing system during the working period in which the Office Action should have been docketed, from the date of mailing of the Office Action to the date three months thereafter, has proven reliable in the past and proved reliable for the other files listed in Exhibit A.

Applicant also conducted a search of the file jacket for the subject application, and the contents thereof indicate that the Office Action was not received. A true and correct copy of the cover of the file jacket for the subject application and a copy of the exchange of correspondence and official papers with the Patent Office from the date of filing of the subject application until the date of receipt of the Notice of Abandonment are submitted herewith as Exhibit B. As can be readily seen, no Office Action having a date of December 22, 2009 is listed on the cover of the file jacket or contained within the contents of the file jacket.

Applicant thus submits abandonment of the subject application is unwarranted and renews its request for reconsideration and withdrawal thereof. Accordingly, Applicant also respectfully renews its request the Office reissue the Office Action to the undersigned.

Although it is believed that no fee is due for this Petition, the Office is hereby authorized and requested to charge any fees required for this Petition against Deposit Account No 04-1679.

If any point remains that is deemed best resolved through a telephonic conversation, the Office is hereby requested to contact the undersigned directly.

Respectfully submitted,

/Mark C. Comtois/

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